

**BUSINESS SUPPORT  
OVERVIEW & SCRUTINY COMMITTEE**

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**POWERS TO BRING EMPTY PROPERTIES  
BACK INTO USE AND A REVIEW OF  
LONG TERM EMPTY PROPERTIES**

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**Summary**

The Committee requested that a report outlining the powers available to the Council to bring empty homes back into use is prepared, along with background information on the number of long-term empty properties. This report provides this information.

**1. Budget and Policy Framework**

- 1.1 The approach to bringing empty homes back into use is set out within the Council's Housing Strategy, which was adopted in 2011. This states that the Council will continue to work with owners primarily where properties present a risk to adjoining properties and with housing providers and landlords to encourage properties to be brought back into use.
- 1.2 Due to changes in the funding regime, capital funding through the Regional Housing Board is no longer available to Local Authorities. The Government has however made some money available to Registered Affordable Housing Providers for Purchase and Repair type schemes, where they purchase empty homes and bring them back to use as affordable homes. Funding for this is limited and revised value for money assessments, mean that there will be a reduction in the number of homes eligible for this of type of assistance in the future for Medway.
- 1.2 Where homes are not brought back into use through negotiation or where the issues are severely affecting the community or other households the Authority has powers to deal with them, this report sets out those powers, and the local context.

## 2. Background

- 2.1 At any one time, there are around 2,700 vacant homes Medway. The most are quickly re-occupied but some remain vacant for longer periods. Homes may be kept empty for a range of reasons including the admission of the owner to care or hospital, probate, improvement or just the normal process of selling and renting homes. Where homes remain vacant for more than six months they are considered long term empty homes.

### Long Term Empty Homes

- 2.2 As of the 31 December 2011, there were 1,226 long-term empty private homes in Medway, this equates to 1.30% of all private sector homes. The table below shows the percentage of long-term empty homes in Medway since 2006/2007.

	2006/7	2007/08	2008/09	2009/10	2010/11	2011/12 YTD
% of total private sector homes vacant for more than 6 months	1.61%	1.62%	1.57%	1.41%	1.37%	1.30%

- 2.3 Recent Government figures indicate that nationally the total number of empty homes is increasing although the number of long-term empty private homes has fallen to its lowest level since 2008. In Medway the number of long-term vacant homes has also fallen but to its lowest level since 2006, which is the first date which information in the current format is available.
- 2.4 Over this period there has been a reduction of 19% of long-term empties from 2006/2007 levels and the number is currently 18% below the national average; across Kent the average is 1.3% although this rises significantly in Thanet with 2.87% and Dover with 3.72%.

### Bringing Empty Homes Back into Use

- 2.5 The table below sets out how many empty homes have been brought back into use following the Council's intervention over the last two years along with details of which type of intervention achieved this.

Intervention	2009/10	2010/11	2011/12 (Expected)
Deposit Bond	107	54	73
Redevelopment	127	23	35
Purchase & Repair	14	31	15
Grant or Loan	17	16	0
Advice & Enforcement	11	11	7
Total	276	135	130

- Deposit Bond Scheme (Home Bond) – Provision of a deposit or bond for a private landlord where a person approaching the Council as homeless is accommodated, when brought back into use.
- Redevelopment as affordable housing – The Council works with owners to allow a property to be purchased by a Housing Association demolished or redeveloped as affordable housing.
- Purchase & Repair – In partnership with Housing Associations funding has been secured from the Homes & Communities Agency to allow a property to be purchased and repaired.
- Grants or Loans – Provided to private landlords previously funded by CLG funding no longer available.
- Enforcement – Where the offer of any of the previous options was not taken up.

Since 2009/2010 a number of the funding sources previously open to support work are either no longer available or have been reduced. This includes Government funding for the redevelopment as affordable homes, Purchase & Repair Schemes and Grants & Loans.

In light of this, combined with the reduction in funding and role of Local Authorities role in dealing with energy efficiency, a decision was made to disband the Council's Empty Homes and Energy Efficiency Team. However as the table illustrates the Council continues to work to deal with empty homes.

### **Powers to bring Empty Homes Back into Use**

Primarily Local Authorities are encouraged to negotiate with owners in order to bring properties back into use including the provision of financial assistance by way of grants and loans to assist with the improvement of empty homes. Government funding directly to Local Authorities to provide this assistance came to an end in 2010. Whilst some funding may be available in Medway for Registered Housing Providers to invest this is limited.

Where Authorities are unable to negotiate with or incentivise owners the Local Authority has *powers*, which it can use in relation to empty homes.

### **Powers to Take Control of the Property**

- Compulsory Purchase Orders (CPOs)

CPOs can be made by Local Authorities under their powers in the Housing Act to acquire land or buildings for the provision of housing; clearance of unfit housing; or securing the aims of a Housing Renewal Area. The guidance advises that they should be considered on their merits generally as part of larger schemes and as a last resort where owners have refused or failed to co-operate.

- Housing Act 1985, section 17

This gives the Authority the power to take over land, houses or other properties to increase the number of houses available through a Compulsory Purchase Order (CPO). The main use of this power would be to gain use of land or homes for new housing. Where control of a property is obtained through this power, it is generally disposed of to a developer for new house building.

- Town and Country Planning Act 1990, section 226

The compulsory purchase powers in section 226 are intended to help Local Authorities which have planning powers to take control of the land they need to put in place their community strategies and local development documents. These planning powers are wide enough to allow to an Authority to compulsory acquire land for redevelopment.

### **Enforced Sale**

Law of Property Act 1925, provides powers to the Authority when it has issued and enforced a charge against a property, and provides it with the legal rights of a mortgage lender. The Authority may have issued the charge against the property because the owner did not:

- obey the terms of a statutory notice that was issued or
- pay Council Tax or other debts owed to the local authority.

### **Making Safe**

- **Dangerous or dilapidated Buildings or structures**

Under the Building Act 1984, sections 77 and 78, the Authority can apply for an order to require the owner to make a property safe or take action itself in an emergency situation to make it safe. It cannot be used to bring a house back into use.

- **Statutory nuisance (statutory nuisance or premises which can affect health)**

Environmental Protection Act, 1990, Section 80 and Building Act 1984, Section 76, allow the Authority to order the owner to make the property safe or allow it to take emergency action to make the building safe. It cannot be used to bring a house back into use.

### **Unsecured properties**

Where an empty house is not secure and could be broken into, vandalised, set on fire etc. the Authority can under the Local Government (Miscellaneous Provisions) Act 1982, Section 29 order the owner to make the property secure or the Authority can take action to board it up in an emergency or fence off the property.

## **Empty Dwelling Management Orders**

The Housing Act 2004 allows the Authority to take out an Empty Dwelling Management Order (EDMO) to make sure that the property is used for housing. The Authority can make EDMOs on properties that have been empty for at least six months. Orders can be interim or final. As part of the order the Authority is required to undertake all necessary building works.

An interim EDMO lasts 12 months but a final EDMO can last up to seven, 14 or 21 years. There is strict guidance and an extensive list of exemptions for the orders with which the Authority must comply with in seeking approval for the order from a Residential Property Tribunal (RPT). Information from the RPT indicates that since 2004 until the 12 November 2011 just 58 applications have been received for orders.

The Empty Homes Agency has stated that the legislation was poorly drafted making the EDMO process overly complex. The Secretary of State for Communities and Local Government in January 2011 announced his intention to further restrict the use of the Orders. With them only being used when the property has become a magnet for vandalism, squatters and other forms of anti-social behaviour which is blighting the local neighbourhood, in addition to which the property would need to have remained empty for two years.

## **Associated Powers**

The Housing Act 2004 gives the Authority powers to make sure that properties are safe and secure and to allow the other enforcement actions to proceed and include:-

- Powers of entry – these allow the Authority to enter a property to inspect if access is refused the Authority can apply for a warrant to enter.
- Power to require information – The Authority can serve notices asking for certain information, for example, about who owns a property. This allows the Authority to act to improve the property using the other powers described.
- Hazard-awareness notices – these can be used to ensure that the owner or the person responsible is aware of a danger and the need to carry out repairs or alterations.
- Power to serve notices – the Authority can serve improvement notices when work needs to be done to improve living conditions for occupiers or neighbours. The work the Authority specifies depends on the conditions at the property.
- Powers to enter a property and carry out work (emergency remedial action) – if you do not carry out work to the standard specified by a notice, the Authority have the option of doing the work and charging the owner for it.

- Power to close a property (prohibition order) – The Authority can issue this notice only after it has carried out a detailed assessment to decide the best course of action to deal with a seriously substandard property. The Authority might close a property where improvements are too expensive or the condition of the property is too bad to repair. The notice would mean that nobody could live in the property.
- Power to order a property to be demolished or an area cleared – this is done in similar circumstances to closing a property.

### 3. Risk Management

Risk	Description	Action to avoid or mitigate risk
Application of the Powers described within the report.	The Powers described within the report must be applied in a considered approach taking into account the individual circumstances of each case.	To avoid the inappropriate application of the Council's Powers.

### 4. Financial and legal implications

- 4.1 The financial and legal implications are set out within the report. Many of the powers available to the Council are subject to the right of appeal to the courts against actions proposed by the Council. Some of the actions require an application to be made to the court by the Council.
- 4.2 Use of all these powers (in particular compulsory purchase powers) will involve the Council in significant expenditure.

### 5. Recommendations

- 5.1 The Committee is requested to consider and note the report.

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#### Background Papers

Building Act 1984  
 Environmental Protection Act 1990  
 Housing Acts 1985 and 2004  
 Law of Property Act 1925  
 Local Government (Miscellaneous Provisions) Act 1982  
 Town and Country Planning Act 1990